IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

CRL.A.No. 1634 of 2007()

CC.845/2003 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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APPELLANT: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKKAN

RESPONDENTS: ACCUSED

BABA @ ANANTHAN, S/O.AGGU, 30/03,
KANATHOOR, R/AT VADAKKEKARA COLONY,
KANTHOOR POST, MULIYAR VILLAGE, KASARAGOD
DISTRICT.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. THANKAPPAN, J.

CRL.A.NO.1634 OF 2007 -D

Dated this the 19th day of September, 2007.

JUDGMENT

This appeal is filed against the judgment in C.C.No.845/2003 on the file of the Chief Judicial Magistrate, Kasaragod. The prosecution case against the respondent/accused is that he had cut and removed sandal wood trees from the Chandanpara Reserve Forest area. To prove the charge against the respondent, prosecution examined four witnesses and relied on Exts.P1 to P4 documents. The trial court found that the prosecution had not proved the case against the respondent/accused. To come to that conclusion, the trial court considered the evidence of Pws 1 to 3, who are the Forest Officials. According to these witnesses, they have noted six stumps of sandalwood trees at the Chandanpara Reserve Forest area and on preparing a mahazar on 12.12.2001, the complaint has been filed before the court. But, there is no evidence adduced before the court to show that the respondent had committed the offence as alleged by the prosecution. Further, the trial court found that only on the basis of the mahazar prepared and only on the allegation that six stumps were seen at the forest,

that by itself cannot prove the case against the respondent. Without producing the evidence before the court that the respondent had cut and removed the sandalwood trees as alleged by the prosecution, the prosecution cannot succeed to prove the case against the respondent.

Considering the entire evidence once again and on going through the judgment of the trial court, this Court is of the view that only on the basis of a statement filed by the Forest Officials, an offence could not be proved against the respondent. This Court is not inclined to interfere with the judgment of the trial court. Accordingly, the appeal stands dismissed confirming the judgment of the trial court.

K. THANKAPPAN, JUDGE.

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